



2019 ASSEMBLY BILL 862

February 4, 2020 - Introduced by Representative NYGREN. Referred to Committee on Substance Abuse and Prevention.

1 **AN ACT** *to amend* 19.32 (1) and 19.82 (1); and *to create* 25.17 (1) (kq), 25.778,
2 51.4228 and 165.12 of the statutes; **relating to:** opioid settlement moneys and
3 creation of opioid settlement trust fund and opioid settlement foundation.

Analysis by the Legislative Reference Bureau

This bill creates two mechanisms for depositing and eventually expending moneys derived from opioid-related court settlements. The first is a nonlapsible segregated trust fund created within the state treasury designated as the opioid settlement trust fund. Under the bill, the opioid settlement trust fund consists of all moneys received by the state resulting from any judgment against or settlement with a member of the opioid industry that are awarded or designated for past opioid-related damages. To expend moneys from the opioid settlement trust fund, the employee of the Department of Health Services that directs opioid initiatives must submit a proposal for the expenditure to the Joint Committee on Finance for review under its passive review process.

The second mechanism pertains to moneys from an opioid-related judgment or settlement between the opioid industry and state and local governments that are attributed to future efforts to abate the opioid crisis. The bill requires the attorney general to organize a nonstock, nonprofit corporation to receive and distribute these moneys. As a condition of receiving the moneys, the bill sets criteria that the corporation must meet, which include having a board of directors comprised of 15 members appointed as described in the bill, complying with open meetings laws and open records laws as if it was a governmental entity, refraining from expending the

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moneys unless the expenditure is in accordance with any applicable court order and is either an actual and reasonable administrative expense or is included in a comprehensive abatement plan and is consistent with a purpose specified in the bill, and submitting an annual report to the attorney general and the chairpersons of the Joint Committee on Finance describing the activities and expenditures of the corporation and any outcomes achieved by the expenditure.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 19.32 (1) of the statutes is amended to read:

2 19.32 (1) “Authority” means any of the following having custody of a record: a
3 state or local office, elective official, agency, board, commission, committee, council,
4 department or public body corporate and politic created by the constitution or by any
5 law, ordinance, rule or order; a governmental or quasi-governmental corporation
6 except for the Bradley center sports and entertainment corporation; a special
7 purpose district; any court of law; the assembly or senate; a nonprofit corporation
8 created under s. 165.12; a nonprofit corporation which receives more than 50 percent
9 of its funds from a county or a municipality, as defined in s. 59.001 (3), and which
10 provides services related to public health or safety to the county or municipality; a
11 university police department under s. 175.42; or a formally constituted subunit of
12 any of the foregoing.

13 **SECTION 2.** 19.82 (1) of the statutes is amended to read:

14 19.82 (1) “Governmental body” means a state or local agency, board,
15 commission, committee, council, department or public body corporate and politic
16 created by constitution, statute, ordinance, rule or order; a governmental or
17 quasi-governmental corporation except for the Bradley center sports and
18 entertainment corporation; a local exposition district under subch. II of ch. 229; a

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1 long-term care district under s. 46.2895; a nonprofit corporation created under s.
2 165.12; or a formally constituted subunit of any of the foregoing, but excludes any
3 such body or committee or subunit of such body which is formed for or meeting for
4 the purpose of collective bargaining under subch. I, IV, or V of ch. 111.

5 **SECTION 3.** 25.17 (1) (kq) of the statutes is created to read:

6 25.17 (1) (kq) Opioid settlement trust fund (s. 25.778);

7 **SECTION 4.** 25.778 of the statutes is created to read:

8 **25.778 Opioid settlement trust fund.** There is created a separate
9 nonlapsible trust fund designated as the opioid settlement trust fund.
10 Notwithstanding s. 165.10, the opioid settlement trust fund shall consist of all
11 moneys that are received by the state from any source resulting from any judgment
12 against or settlement with opioid manufacturers, opioid research associations, or
13 any other person in the opioid industry and that are awarded or designated for
14 opioid-related damages that accrued before the date of the judgment or settlement.

15 **SECTION 5.** 51.4228 of the statutes is created to read:

16 **51.4228 Opioid settlement moneys.** For any expenditure of moneys from
17 the opioid settlement trust fund, the employee of the department that directs opioid
18 initiatives, or his or her designee, shall submit a proposal for the expenditure to the
19 joint committee on finance. If the cochairpersons of the joint committee on finance
20 do not notify the department within 14 working days after the date of the submittal
21 of the proposed expenditure under this section that the committee has scheduled a
22 meeting for the purpose of reviewing the proposed expenditure, the department may
23 make the expenditure as proposed. If, within 14 working days after the date of the
24 submittal of the proposed expenditure under this section, the cochairpersons of the
25 committee notify the department that the committee has scheduled a meeting for the

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1 purpose of reviewing the proposed expenditure, the department may make the
2 proposed expenditure only upon approval by the committee. The joint committee on
3 finance may only approve expenditures that are in accordance with any applicable
4 court order. The procedures under s. 13.10 do not apply to this section. The employee
5 of the department that directs opioid initiatives shall oversee the expenditure of
6 moneys from the opioid settlement trust fund. Any moneys expended from the opioid
7 settlement trust fund may not be used for administrative expenses.

8 **SECTION 6.** 165.12 of the statutes is created to read:

9 **165.12 Creation of opioid settlement foundation.** The attorney general
10 shall organize a nonstock, nonprofit corporation under ch. 181 for the purposes of
11 receiving and distributing the proceeds that are attributed to future efforts to abate
12 the opioid crisis from any judgment or settlement agreement between the state or
13 any local governmental unit and any opioid manufacturers, opioid research
14 associations, or any other person in the opioid industry. As a condition of receiving
15 the proceeds of a judgment or settlement described under this section, the
16 corporation shall meet all of the following criteria:

17 (1) The board of directors of the corporation is composed of all 15 of the
18 following persons for staggered 3-year terms:

19 (a) To represent the interests of the state, an appointee of each of the following:

- 20 1. The attorney general.
- 21 2. The majority leader of the senate.
- 22 3. The minority leader of the senate.
- 23 4. The governor.
- 24 5. The speaker of the assembly.
- 25 6. The minority leader of the assembly.

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1 (b) To represent the interests of the department of health services, the state,
2 and local governmental units, an appointee of the secretary of health services.

3 (c) To represent the interests of the University of Wisconsin Hospitals and
4 Clinics Authority, the state, and local governmental units, an appointee of the chief
5 executive officer of the University of Wisconsin Hospitals and Clinics Authority.

6 (d) To represent the interests of the counties of this state, 2 appointees of the
7 executive director of the Wisconsin Counties Association.

8 (e) To represent the interests of the counties of this state, 2 appointees that are
9 agreed to by the Milwaukee County executive, the Dane County executive, the
10 Waukesha County executive, and the Walworth County board of supervisors.

11 (f) To represent the interests of the cities of this state, 3 appointees of the
12 executive director of the League of Wisconsin Municipalities.

13 **(2)** The articles of incorporation or bylaws of the corporation state that a
14 purpose of the corporation is to invest, manage, and administer moneys for the
15 purpose of abating the ongoing damages caused by the opioid epidemic.

16 **(3)** The corporation complies with open meetings laws under subch. V of ch. 19
17 as if the corporation is a governmental body and complies with open records law
18 under subch. II of ch. 19 as if the corporation is an authority.

19 **(4)** The corporation authorizes no expenditure of proceeds of opioid-related
20 judgments or settlements unless the expenditure is in accordance with any
21 applicable court order and the expenditure is either an actual and reasonable
22 administrative expense or is included in a comprehensive abatement plan and is
23 consistent with any of the following purposes:

24 (a) Supporting clinical and evidence-based research and treatment efforts in
25 this state to prevent and remedy opioid addiction.

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1 (b) Supporting cost-effective opioid prevention and cessation programs,
2 including programs that do any of the following:

3 1. Improve access to medications that have been proven to prevent or reverse
4 an opioid overdose and support recovery.

5 2. Support peer support specialists.

6 3. Support screening, brief intervention, and referral to treatment services in
7 hospitals and correctional facilities and for high-risk populations.

8 4. Support access to crisis beds and residential treatment services.

9 5. Expand and establish mobile crisis response systems and crisis stabilization
10 centers.

11 6. Enforce laws regarding opioid prescriptions and sales.

12 7. Build provider capacity for an integrated medical home model that
13 coordinates substance abuse treatment between regional providers that provide
14 ongoing care.

15 8. Generally mitigate the growing opioid crisis through education, training,
16 and law enforcement.

17 9. Improve the public health of the citizens of this state by addressing issues
18 arising as a result of past, present, and future use of opioid pain medications.

19 (5) Annually, the corporation submits to the attorney general and the
20 chairpersons of the joint committee on finance a report describing the activities of the
21 corporation, reporting any expenditures of the corporation, and reporting any
22 outcomes achieved by the expenditure.

23 (END)